

**Notice of Allowability**

Application No.

10/039,109

Examiner

Anthony Q. Edwards

Applicant(s)

BERRY ET AL

Art Unit

2835

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed August 11, 2003.
2. ☒ The allowed claim(s) is/are 1-4,6-9,11-19 and 21.
3. ☒ The drawings filed on 04 January 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
(a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.  
(b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.  
(c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- 1 ☐ Notice of References Cited (PTO-892)  
3 ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
5 ☒ Information Disclosure Statements (PTO-1449), Paper No. 6/03  
7 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- 2 ☐ Notice of Informal Patent Application (PTO-152)  
4 ☐ Interview Summary (PTO-413), Paper No. \_\_\_\_\_.  
6 ☐ Examiner's Amendment/Comment  
8 ☒ Examiner's Statement of Reasons for Allowance  
9 ☐ Other

  
**DARREN SCHUBERG**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800

***Allowable Subject Matter***

Claims 1-4, 6-9, 11-19 and 21 are allowed. The following is an examiner's statement of reasons for allowance: Claim 1, amended by applicant on August 11, 2003, now includes the allowable subject matter recited in claim 5. The reasons for allowance of claim 5 were provided in the previous Office Action. These features, in combination with the rest of the elements or steps, are not taught or suggested by the prior art references. Claims 2-5 and 6-8 depend, either directly or indirectly, from claim 1 and are therefore allowable for at least the reasons provided above.

Claim 9, amended by applicant on August 11, 2003, now includes the allowable subject matter recited in claim 10. The reasons for allowance of claim 10 were provided in the previous Office Action. These features, in combination with the rest of the elements or steps, are not taught or suggested by the prior art references. Claims 11-13 depend, either directly or indirectly, from claim 9 and are therefore allowable for at least the reasons provided above.

Claim 14 is allowed for the reasons specified in the previous Office Action. These features, in combination with the rest of the elements or steps, are not taught or suggested by the prior art references. Claims 15 and 16, either directly or indirectly, from claim 14 and are therefore allowable for at least the reasons provided above.

Claim 17, amended by applicant on August 11, 2003, now includes the allowable subject matter recited in claim 20. The reasons for allowance of claim 20 were provided in the previous Office Action. These features, in combination with the rest of the elements or steps, are not taught or suggested by the prior art references. Claims 18, 19 and 21 depend, either directly or indirectly, from claim 17 and are therefore allowable for at least the reasons provided above.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Q. Edwards whose telephone number is 703-605-4214. The examiner can normally be reached on M-F (7:30-3:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on (703) 308-4815. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-9929.

aqe  
September 3, 2003

  
DARREN SCHUBERG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800